IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 11TH DECEMBER 2007 / 20TH AGRAHAYANA 1929

WP(C).No. 35163 of 2007(J)

PETITIONER:

MARY JOLLY, D/O. MATHAI CHACKO,
AGED 38 YEARS, VALLIKAVUNGAL HOUSE, NILAMBUR,
MALAPPURAM DISTRICT.

BY ADV. SRI.BABU S. NAIR

RESPONDENT:

THE MANAGER,
UNION BANK OF INDIA, NILAMBUR BRANCH,
MALAPPURAM DISTRICT.

BY ADV. SRI.A.S.P.KURUP, SC, UBI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.
==========
W.P.(C) NO. 35163 OF 2007 J
==========

Dated this the 11th day of December, 2007

J U D G M E N T

Petitioner submits that towards the loan availed of by her, certain documents were deposited and that despite settlement of her liability to the Bank, the documents are not returned. It is on that premise, this writ petition has been filed praying for returning the original of document No.1391/97 deposited with the respondent, to the petitioner.

2. On instructions, learned standing counsel for the respondent Bank submits that it is not the petitioner who deposited the document referred to above, but it was deposited only by the guaranteer. It is also submitted that earlier, a suit was filed against the borrower, the petitioner herein as also against the guaranteer and that in the process of filing the suit in the Court, the documents got misplaced and have not been traced till date. It is submitted that it was intimated to the borrower as also to the guaranteer and that the parties were convinced of the genuineness of the Bank's version and that in the discharge of their liability, the borrower was given a reduction

of Rs.63,864/-. It is stated that the guaranteer has been told that the Bank will obtain certified copies of the document with due endorsement that the originals have been lost and that the Bank has also carried out a paper publication in this behalf. It is stated that in any case, the guaranteer having deposited the title deeds and only the guaranteer can raise any claim if at all he is aggrieved and that since the guaranteer has not raised any claim, this writ petition is misconceived.

3. I heard the counsel for the petitioner and the respondent.

4. If it is the guaranteer, who had deposited the title deeds, only the guaranteer can claim it. If as a matter of fact, the Bank lost the document and that the guaranteer is convinced of the genuineness of the version of the Bank, the borrower can have no grievance in this. Therefore, the demand made by the petitioner to return the documents to the petitioner is unsustainable.

Writ petition fails and is dismissed.

ANTONY DOMINIC, JUDGE.

Rp